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EXPRESS MAIL NO: IB237130773
MAILED: 15 April 1993

PATENT DOCKET NO. 554C1



GENENTECH, INC.
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08 318346

4/14/93
08-25-93

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Robert M. Hudziak et al.

Serial No. to be assigned

Filed: 15 April 1993

For: HER2 EXTRACELLULAR DOMAIN

) Anticipated Art Unit: 1805

) Prior Application:

) Examiner: M. Mosher

) Art Unit: 1805

FILING UNDER 37 CFR 1.60(b)

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

This is a request for filing a

x Continuation
- Divisional

application under 37 CFR 1.60, of pending prior application serial no. 07/354,319 filed on 19 May 1989 of Robert M. Hudziak, H. Michael Shepard and Axel Ullrich for HER2 EXTRACELLULAR DOMAIN

CERTIFICATION UNDER 37 CFR 1.10

I hereby certify that the transmittal and the documents referred to as attached therein are being deposited with the United States Postal Service on this date 15 April 1993 in an envelope as "Express Mail Post Office to Addressee" mailing Label Number 1B237130773 addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Louise Strasbaugh

(Type or print name of person mailing paper)

Louise Strasbaugh
(Signature of person mailing paper)

1. copy of Petition for Extension of time included in application

1. Copy of Prior Application as **Which is Attached**

x I hereby verify that the attached papers are a true copy of what is shown in my records to be the above identified prior application, including the oath or declaration originally filed (37 CFR 1.60).

The copy of the papers of prior application **as filed** which are attached are as follows:

x 24 page(s) of specification
x 3 page(s) of claims
x 1 page(s) of abstract
X 13 sheet(s) of drawing -- **(also complete part 6 below if drawings are to be transferred)**
x 3 pages of declaration and power of attorney

If the copy of the declaration being filed does not show applicant's signature indicate thereon that it was signed and complete the following:

— in accordance with the indication required by 37 CFR 60(b) my records reflect that the original signed declaration showing applicant's signature was filed on _____

— the amendment referred to in the declaration filed to complete the prior application and I hereby state, in accordance with the requirements of 37 CFR 1.60(b), that this amendment did not introduce new matter therein.

2. Amendments

x Cancel in this application original claims 1, 4, 6, and 8 of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)

X A preliminary amendment is enclosed. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest number **original** claim in the prior application.)

3. Petition for Suspension of Prosecution for the Time Necessary to File an Amendment

— There is provided herewith a Petition to Suspend Prosecution For the Time Necessary to File An Amendment (New Application Filed Concurrently).

4. Fee Calculation

CLAIMS AS FILED					
Number filed	Number Extra	Rate	Basic Fee \$710		
Total Claims 23	- 20 = 3	X \$ 22.00	\$ 66		
Independent Claims 4	- 3 = 0	X \$ 74.00	\$ 74		
Multiple dependent claim(s), if any		X \$ 230.00			

Filing Fee Calculation \$ 850

5. Drawings

— Transfer the drawings from the prior application to this application and, subject to item 17 below, abandon said prior application as of the filing date accorded this application. A duplicate copy of this request is enclosed for filing in the prior application file. **(May only be used if signed by (1) applicant,**

(2) assignee of record (3) attorney or agent of record authorized by 37 CFR 1.138 and before payment of issue fee.)

— Transfer the following sheet(s) of drawing for the prior application to this application _____
— A copy of the amendment canceling these sheets of drawing in the prior application is attached

— New Drawings are enclosed

— formal — informal

6. Priority -- 35 U.S.C. 119

— Priority of application serial no. _____ filed on _____ in _____
is claimed under 35 U.S.C. 119.

— The certified copy has been filed in prior U.S. application serial no. _____ on _____

— The certified copy will follow

7. Relate Back -- 35 U.S.C. 120

x Amend the specification by inserting before the first line the sentence:

"This is a

x continuation

— divisional

of co-pending application serial no. 07/354,319 filed on 19 May 1989." *See*

8. Inventorship Statement

sub
ci
(a) With respect to the prior copending U.S. application from which this application claims benefit under 35 USC 120 the inventor(s) in this application is (are):

x the same

— less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted:

(b) The inventorship for all the claims in this application are

x the same

— not the same, and an explanation, including the ownership of the various claims at the time the last claimed invention was made, is submitted.

9. Assignment

x The prior application is assigned of record to Genentech, Inc.

— an assignment of the invention to _____ is attached

10. Fee Payment Being Made At This Time

x Enclosed

x basic filing fee

— recording assignment

— processing and retention fee

\$ 850

\$

\$

TOTAL FEES ENCLOSED

\$ 850

1.1. Method of Payment of Fees

- ☒ charge Deposit Account No. 07-0630 in the amount of \$850
A duplicate of this request is attached.

12. Authorization to Charge Additional Fees

- ☒ The Commissioner is hereby authorized to charge the following additional fees which may be required by this paper and during the entire pendency of the application to Account No. 07-0630.
- ☒ 37 CFR 1.16(a), (f) or (g) (filing fees)
☐ 37 CFR 1.16(b), (c) or (d) (presentation of extra claims)
☐ 37 CFR 1.17 (application processing fees)
☐ 37 CFR 1.18 (issue fee at or before mailing Notice of Allowance)

13. Power of Attorney

- ☒ The power of attorney in the prior application is to

Donald M. Sandler, Reg.No. 19,237; Bruce H. Bernstein, Reg.No. 29,027; Neil F. Greenblum, Reg.No. 28,394; Martin G. Mullen, Reg. No. 28,574

Attorney

Reg. No.

- a. ☒ The power appears in the original papers in the prior application.
b. ☐ Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.
c. ☒ A new power has been executed and is attached.
d. ☒ Address all future communications to

GENENTECH, INC.

Attn: Carolyn R. Adler

460 Point San Bruno Boulevard

South San Francisco, CA 94080

14. Maintenance of Copendency of Prior Application

- ☒ A petition, fee and response has been filed to extend the term in the pending prior application until
☒ A copy of the petition for extension of time in the prior application is attached.

15. Conditional Petition for Extension of Time in Prior Application

- ☐ a conditional petition for extension of time is being filed in the pending parent application.
☐ a copy of the conditional petition for extension of time in the prior application is attached.

16. Abandonment of Prior Application (if applicable)

- ☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application copending with said prior application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that

willful false statements and the like made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

15 April 1993

Date

Carolyn R. Adler

Type or print name of person signing

Carolyn R. Adler

Signature

GENENTECH, INC.

460 Point San Bruno Blvd.

South San Francisco, CA 94080

☐ Inventor

☐ Assignee of complete interest

☐ Person authorized to sign for assignee

☒ Attorney or agent of record

☐ Filed under rule 34(a)

Tel. No: (415) 225-2614

(Complete the following if applicable)

Genentech, Inc.

Type name of assignee

460 Point San Bruno Blvd.

Address of assignee

South San Francisco, CA 94080

Patent Counsel

Title of person authorized to sign for assignee

Assignment recorded in PTO on 19 May 1989

Reel 5098 Frame 0398